brady

Attachment to Independent Case Review Report
For CDRU # 793 Case file # 95-288462 .

Material Examiner: Malone (RQ) _____

Remarks:

Case resulted in trial, transcript available..

INDEPENDENT CASE REVIEW REPORT

100

Independent Review conducted by: Steve Robertson

Area(s) of Expertise: Hair and Fiber

Review commenced at: 1:00 PM (Time), 03/13/2001 (Date)

File #: 95-288462

Laboratory #(s): 90608020
90608083

Examiner(s) & Symbols

	Reviewed	Not Reviewed		Reviewed	Not Reviewed
RQ	X☐	☐		☐	☐
YD, UI	☐	X ☐		☐	☐
	☐	☐		☐	☐

Materials Reviewed

Trial testimony transcript(s) of: Michael Malone

Testimony Date(s): 11-15-89 Pages: 262-283

Laboratory Report(s):

Laboratory Number: 90608020/90608083 Date: Sept 7, 1989

Laboratory Number: Date:

Laboratory Number: Date:

Examiner Bench Notes of: RQ

Laboratory Number: 90608020
90608083

Initials: SRR

Was any other material reviewed? X☐ Yes ☐ No

If yes, please identify and/or describe the material: Submitting agency letters (dated 6-5-89 and 6-6-89)

Results of Review

File #: 95-288462 Item or Specimen # Reviewed: Q1, Q10-Q13, Q18-Q30, K1, K2, K7, K8

Review of Laboratory Report(s) and Bench Notes:

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

1) Did the examiner perform the appropriate tests in a scientifically acceptable manner, based on the methods, protocols, and analytic techniques available **at the time of the original examination(s)**?
☐ Yes ☐ No X ☐ Unable to Determine

2) Are the examination results set forth in the laboratory report(s) supported and adequately documented in the bench notes? ☐ Yes X ☐ No ☐ Unable to Determine

Review of Testimony:

Note: Numbered comments are required below or on additional pages for any "No" or "Unable to Determine" Responses

☐ Transcript not available.

3) Testimony consistent with the laboratory report(s)? X ☐ Yes ☐ No ☐ Unable to Determine

4) Testimony consistent with the bench notes? X ☐ Yes ☐ No ☐ Unable to Determine

5) Testimony within bounds of examiner's expertise? ☐ Yes X ☐ No ☐ Unable to Determine

Initials: SMR

Comments

(Set forth by above question #, if applicable.
Use "Additional Comments" Sheet, if needed)

File #: 95-288462

#1: With microscopic hair comparison, even with the best notes, there is no way to determine the comparison was performed correctly.

#2: The examination results set forth in the laboratory report are supported by the bench notes, but the documentation is marginally adequate. The notes are not dated or initialed and are in pencil. The technician's notes do not indicate that any hair was recovered from the Q items. RQ uses abbreviations to indicate the microscopic characteristics of the hair. These abbreviations are difficult to interpret.

The laboratory report contains results of hair comparisons performed on multiple cases (90608077, 90608078, 90608079, 90608080, 90608081, 90608082, 90608084, 90608085, 90608086, 90608087). There is no

Review completed at: 2:15 PM (Time), 03/13/2001 (Date)

Total time spent conducting review (to nearest 1/4 hour): 1:15 hours

I hereby certify that I conducted this review in an independent, unbiased manner and that the results of my review are fully documented on this report consisting of a total of 4 pages.

Steve Roberts — 03/13/2001

(Signature) (Date)

Initials: SR

File #: 95-288462

#2 (continued): documentation of the hair comparisons in these cases within this case file.

All hair matches were apparently verified by a second hair examiner.

#5: Malone testified that the head hair and the pubic hair transfer are two independent events. While this is true, he goes on to state that, in his opinion, the chances that the head and the pubic hair came from someone else besides the defendant is "almost non-existent". While the finding of head and pubic hair matching head and pubic hair of one individual increases the likelihood those hair came from that individual, hair comparisons remain associative evidence that "do not constitute a basis for absolute personal identification", as stated in his laboratory report. Malone has overstated the significance of the hair comparison.

He also testified that, in his opinion, the defendant was almost certainly in the residence where the hair samples were collected. Malone is going beyond the scope of hair comparison and is making a conclusion that should be left for the jury to decide.

The defendant represented himself at trial.

Initials: _____